



Case No: F00EC101

IN THE CARDIFF COUNTY COURT

Cardiff Civil and Family Justice Centre
2 Park Street, Cardiff CF101ET

Date: 12/08/2020

Before:

HIS HONOUR JUDGE JARMAN QC

Between:

SEAN ALLEYNE
- and -
COLVIN ALLEYNE

Claimant

Defendant

Approved Judgment on costs on written submissions

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

Covid-19 Protocol: This judgment was handed down by the judge remotely by circulation to the parties' representatives by email and released to Bailii. The date and time for hand-down is deemed to be 10.30 am 12 August 2020.

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HIS HONOUR JUDGE JARMAN QC

HH JUDGE JARMAN QC:

1. I handed down judgment in this matter on 6 January 2020 and ordered that in default of agreement on costs the parties should send to the court and each other their written submissions on costs. An extension of time was granted and both parties have filed written submissions on costs. There is no agreement. This is my determination on the issue of costs on the basis of those submissions.
2. I begin with the issue of which party is entitled to his costs. CPR Pt 44.2(1) provides that the court has a discretion as to whether costs are payable by one party to another, the amount of the costs, and when they should be paid. Pt 44.2(2) provides that if the court decides to make an order about costs, the general rule is that the unsuccessful party will be ordered to pay the costs of the successful party, but the court may make a different order. Pt 44.2(4) provides that in deciding what order (if any) to make about costs the court will have regard to all the circumstances, including the conduct of the parties.
3. In my judgement it is clear that the claimant was wholly successful in his claim to half of the residuary estate of his late mother and to a beneficial interest to the extent of the balance of his entitlement in the property of his brother the defendant in Ferrier Avenue Cardiff, which was purchased with the proceeds of the estate. The starting point is that he is entitled to his costs. There is nothing in the circumstances which suggests that a different order should be made.
4. I turn now to assess such costs summarily. Both parties are now representing themselves, the claimant previously having instructed solicitors and then direct access counsel for the substantive hearing. The claimant's statement of costs are not in the standard form, but having regard to the overriding objective and the need for expedition and proportionality I shall carry out an assessment on the basis of the documents provided.
5. The claimant has submitted bills from Portway Solicitor to himself, between February 2017 and 6 April 2017, but most of these are duplicated. The total of these amount to £1,300. The claimant claims £6380 under this head, but that sum is not supported by documentation. I assess these costs in the sum of £1,300.
6. The next item is an agreed fee of £5,000 with his direct access counsel, which is supported by the filed letter of engagement. The hearing was listed for 2 days although in the event it took one. However, having regard to the complexity of the case and its importance to the claimant in my judgment this fee is reasonable and proportionate, and I assess those costs in that sum.
7. The next head of claim is £5710 for travel back and for to Guyana. Various booking confirmations for air travel between November 2018 and February 2020 are submitted, but it is clear that most of these do not relate to the hearing dates. It is also clear from documentation which the claimant submitted earlier that throughout 2019 he was having regular appointments with an NHS hospital in London leading to surgical procedure in the autumn and follow up appointments. In my judgment it is likely that such travel costs would have been incurred in any event and I make no award under this head.

8. The claimant then claims nearly £30,000 in rent for a property in London from August 2019 to February 2020. In my judgment, again this is not reasonably incurred in respect of the litigation and is more likely to be related to the NHS treatment. I make no award under this head.
9. Finally, the claimant claims £1500 for miscellaneous travel and living expenses of £3,000. These are not particularised or documented, and it is not clear how it is said these relate to the litigation. I make no award under this head..
10. Accordingly, the award I make is that the defendant will pay the claimant's costs summarily assessed in the sum of £6,300, within 14 days.